IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 5973 of 2006 (O&M)
Date of decision : 13.11.2006.

Madan Lal

.....Petitioner.

Versus

Raj Kaur

.....Respondent.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr. S.K.S. Bedi,Advocate
for the petitioner.

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VINOD K. SHARMA,J.(ORAL)

The present revision petition has been filed against an order passed by the learned Rent Controller ordering ejectment of the petitioner for non-payment of provisional rent as assessed.

The learned counsel for the petitioner has challenged the said order on the ground that the petitioner has challenged the relationship of landlord and tenant and, therefore, it is incumbent upon the Rent Controller to decide this issue. This submission of the petitioner cannot be accepted keeping in view the fact that against the order of assessment made by the Rent Controller the petitioner had come up in revision wherein directions were issued to the petitioner to deposit the rent w.e.f. 1.7.1997 at the rate of Rs. 1600/- p.m.. In spite of the order having been passed by this Court, the petitioner has chosen not to deposit the provisional rent w.e.f. 1.7.1997 to 30.4.2004.

The learned counsel for the petitioner thereafter contends that provisional rent could not be taken to be final assessment as the parties are yet to lead evidence and thereafter that order of ejectment can be passed. This contention of the learned counsel for the petitioner is also liable to be rejected. The petitioner was bound to pay the provisional rent as assessed and thereafter contest the case on merit. However, in case the tenant fails to pay the provisional rent as assessed within the stipulated period, the Rent Controller is bound to pass an order of ejectment as no further proceedings are required to be taken in that case. Faced with this situation, the learned counsel raised the contention that the tenant has already paid rent from 1.7.1997 to 30.4.2000. This contention is also totally misconceived as this Court was pleased to issue directions to the petitioner to deposit provisional rent as assessed from 1.7.1997 to 30.4.2000. The said order has attained finality and, therefore, it is not open to the petitioner to raise this contention at this stage.

In view of whatever stated above, there is no error or illegality in the impugned order which may call for interference by this court in exercise of revisional jurisdiction.

Dismissed.

13.11.2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**